

REMARKS

This amendment is submitted along with a Request for Continued Examination and appropriate fee in reply to the final Office Action dated May 16, 2007. Claims 1-5, 8-12, 14-17, 20-23, 35 and 37-41 currently stand rejected. Applicants have amended independent claims 1, 12, 35, 40 and 41 to more particularly distinguish the claimed invention from the cited references. Claims 22 and 23 have been amended to correct typographical errors. No new matter has been added by the amendment.

In light of the amendment and the remarks presented below, Applicants respectfully request reconsideration and allowance of all now-pending claims of the present application.

Claim Objections

Claim 35 was objected to for including the term "said judging means", which lacked antecedent basis. Applicants have amended claim 35 to recite instead --said judging unit--, which has proper antecedent basis.

Accordingly, Applicants respectfully request withdrawal of the objections to claim 35.

Claim Rejections - 35 USC §102

Claims 1-5, 8, 9 and 10 currently stand rejected under 35 U.S.C. §102(e) as being anticipated by Brown et al. (U.S. Patent No. 4,972,461, hereinafter "Brown"). Claims 12, 14, 20, 21, 23, 35, 37, 39, 40 and 41 currently stand rejected under 35 U.S.C. §102(e) as being anticipated by Mukherjee et al. (U.S. Patent No. 6,289,223, hereinafter "Mukherjee").

Claims 1-5, 8, 9 and 10

The Office Action cites Brown as disclosing all of the recited features of independent claim 1. Brown discloses a call message delivery system and method, in which the message status may be delivered to the caller, and the caller may optionally request a response from the message recipient or answering party at the called station. In particular, the Office Action refers to col. 9, line 61 to col. 10, line 18 of Brown apparently asserting that this passage states that an

originator is allowed to receive or to listen to delivery reports in case the originator enters a valid billing code.

In more detail, the above cited passage describes a part of the flow of the process as shown in Fig. 2. In particular, a user enters a billing code in step 204, which is then checked, and in step 209 a status is displayed. This status includes messages which are 1) scheduled for delivery, 2) currently under delivery, 3) successfully delivered, including the recipient response, 4) unsuccessfully delivered and 5) cancelled messages. Accordingly, by entering the correct billing code, the user can access the status of his messages.

Independent claim 1, for example, recites, *inter alia*, deciding whether an originator of said message is allowed to receive a delivery report by referring to a list of originators of messages which are allowed to receive delivery reports, and transmitting said delivery report to the originator of said message only in case said originator of said message is on said list of originators. Accordingly, it is clearly derivable from the wording of independent claim 1 that the delivery reports are transmitted to the originator only when the originator is allowed to receive the delivery report. The above cited passage of Brown only describes that the user is entitled to access his message status as such, but nothing is said by Brown whether the originator is allowed to receive the delivery reports. Moreover, Brown is fully silent regarding the storage of a list originators which are allowed to receive delivery reports.

In particular, the combination of the two features of independent claim 1 that are recited above clearly describe that it is not the point of the claimed invention that some authorization has to be carried out by the originator in order to access the delivery report that is already received (as indicated in the cited passage of Brown), but instead that the originator of a message is allowed to receive delivery reports as such, only when the originator is on a list of allowed originators as provided in independent claim 1.

Accordingly, none of the cited passages of Brown, nor indeed all of the disclosure of Brown, teaches or suggests deciding whether an originator of said message is allowed to receive a delivery report by referring to a list of originators of messages which are allowed to receive delivery reports, and transmitting said delivery report to the originator of said message only in case said originator of said message is on said list of originators as recited in independent claim 1. The concept of a message originator being allowed to receive reports based on being in a list of originators that are allowed to receive delivery reports is absent from Brown. Thus, since

Brown fails to teach or suggest at least the claimed features of deciding whether an originator of said message is allowed to receive a delivery report by referring to a list of originators of messages which are allowed to receive delivery reports, and transmitting said delivery report to the originator of said message only in case said originator of said message is on said list of originators as recited in independent claim 1, Brown does not anticipate independent claim 1.

Claims 2-5, 8, 9 and 10 depend either directly or indirectly from independent claim 1 and therefore include all the recitations of independent claim 1. Dependent claims 2-5, 8, 9 and 10 are therefore patentable for at least the same reasons given above for independent claim 1.

Accordingly, Applicants respectfully submit that the rejections of claims 1-5, 8, 9 and 10 are overcome.

Claims 12, 14, 20, 21, 23, 35, 37, 39, 40 and 41

Independent claims 12, 35, 40 and 41 are directed to network systems and terminal devices for employment of embodiments of the claimed invention. As such, independent claims 12, 35, 40 and 41 contain substantially similar recitations to those of independent claim 1 at least with regard to transmitting delivery reports to originators allowed to receive such reports as indicated in a list of originators that are allowed to receive delivery reports.

Mukherjee describes sending of multipoint SMS messages, which are delivered to a plurality of receivers at the same time (see abstract). In this regard, originators of such multipoint SMS messages need to have an authorization to send such SMS messages, as described at col. 4, lines 7-9 and lines 17-24 of Mukherjee, for example, and as also cited by the Office Action. In col. 6, lines 13-20, Mukherjee describes that a failure report is sent to an originating MS who is not authorized to send such a multipoint SMS.

With respect to Mukherjee, the Office Action refers, in particular, to the passage in col. 6, lines 21-30. Mukherjee describes that the multipoint SMS message is sent to the corresponding usergroup in case there are no user restrictions (which relate to reception of the multipoint SMS message only), and that in case of success, a delivery report is sent to the originating mobile station. That is, when there are no user restrictions, the originator may send a message and may receive delivery reports. On the other hand, Mukherjee describes that when there are user restrictions, the originator is not allowed to send messages any messages, and, consequently, the originator cannot receive delivery reports, since the original message cannot be sent. The

interpretation of Mukherjee that is put forth in the Office Action that “[i]f the originator is part of a usergroup that has authorization to transmit a message to a subscriber, then the originator is allowed to received a successful delivery report based on authorization to transmit a message to a destination or terminal device and successful transmission to the destination”, even if admitted as being accurate, would still not meet the claimed invention, since independent claims 12, 35, 40 and 41 clearly state that sending of a message and sending of a delivery report are handled separately. Thus, according to the claimed invention, sending of a message may be allowed, but receiving of a delivery report may not, but Mukherjee fails to disclose this feature since, according to Mukherjee as asserted by the Office Action, by being allowed to send a message, the originator is also allowed to receive the delivery report. This is evident from the recitation (e.g., see claim 12, lines 10-12) of the claimed invention that the judging unit operates in response to receiving the message. Thus, the determination regarding receipt of delivery reports is made after receiving the message.

Mukherjee may disclose that a database list 26 regarding the usergroups; however, this database list refers to originating authorization, not delivery report transmission (authorization). (Fig. 2, column 4, lines 33 to 37, column 6, lines 5 to 30). Hence, Mukherjee leads in a different direction, so that the subject-matter of independent claims 12, 35, 40 and 41 is also not suggested by Mukherjee.

Accordingly, it appears that the Office Action judges the novelty of the claimed invention in view of Mukherjee (and also Brown) with hindsight. Namely, Mukherjee (and also Brown) never describes or even suggests the handling of sending of messages and receiving of delivery reports *separately*. The Office Action only describes that according to Mukherjee (and Brown) both operations are allowed or not allowed, but only when knowing the present application, would it be clear to the person skilled in the art that only the receiving of delivery reports may allowed or not allowed independently from sending of the message.

Based on the remarks above, it can be seen that Mukherjee also fails to teach or suggest transmitting delivery reports to originators allowed to receive such reports as indicated in a list of originators that are allowed to receive delivery reports as provided in independent claims 12, 35, 40 and 41. Thus, for all the reasons stated above, Mukherjee fails to teach or suggest transmitting delivery reports to originators allowed to receive the delivery reports as determined

by a judging unit as generally set forth in independent claims 12, 35, 40 and 41. Therefore independent claims 12, 35, 40 and 41 are patentable and non-obvious in view of Mukherjee.

Claims 14, 20, 21, 23, 37 and 39 depend either directly or indirectly from independent claims 12 and 35, respectively, and therefore include all the recitations of their respective independent claims. Dependent claims 14, 20, 21, 23, 37 and 39 are therefore patentable for at least the same reasons given above for independent claims 12 and 35.

Accordingly, Applicants respectfully submit that the rejections of claims 12, 14, 20, 21, 23, 35, 37 and 39 are overcome.

Claim Rejections - 35 USC §103

Claim 11 stands rejected under 35 U.S.C. §103(a) as being unpatentable over Brown in view of Mukherjee. Claim 15 stands rejected under 35 U.S.C. §103(a) as being unpatentable over Mukherjee in view of Alperovich et al. (U.S. Patent No. 6,119,014, hereinafter "Alperovich"). Claims 16, 17, 22 and 38 stand rejected under 35 U.S.C. §103(a) as being unpatentable over Mukherjee in view of Gleason (U.S. Patent No. 5,966,663).

As stated above, both Brown and Mukherjee fail to teach or suggest transmitting delivery reports to originators allowed to receive such reports as indicated in a list of originators that are allowed to receive delivery reports as generally set forth in independent claims 1, 12 and 35. Alperovich also fails to teach or suggest the corresponding recited features of independent claims 1, 12 and 35 and is not cited as such. Gleason also fails to cure the above noted deficiency of Mukherjee and Brown and thus, Gleason also fails to teach or suggest the aforementioned features of independent claims 1, 12 and 35.

Since the cited references each fail to teach or suggest the aforementioned features of independent claims 1, 12 and 35, any combination of the cited references also fails to teach or suggest the subject matter of independent claims 1, 12 and 35. Thus, the cited references, taken either individually or in combination, do not anticipate, or render independent claims 1, 12 and 35 obvious. Claims 11, 15-17, 22 and 38 depend either directly or indirectly from a respective one of independent claims 1, 12 and 35, and as such, include all the recitations of their respective independent claims. Dependent claims 11, 15-17, 22 and 38 are therefore patentably distinct

Appl. No.: 10/089,681
Amdt. Dated 08/15/2007
Reply to Office Action of 05/16/2007

from the cited references, individually or in combination, for at least the same reasons as given above for independent claims 1, 12 and 35.

Accordingly, for all the reasons stated above, Applicants respectfully submit that the rejections of claims 11, 15-17, 22 and 38 under 35 U.S.C. §103(a) are overcome.

Appl. No.: 10/089,681
Amdt. Dated 08/15/2007
Reply to Office Action of 05/16/2007

CONCLUSION

In view of the amendments and the remarks submitted above, it is respectfully submitted that the present claims are in condition for immediate allowance. It is therefore respectfully requested that a Notice of Allowance be issued. The Examiner is encouraged to contact Applicants' undersigned attorney to resolve any remaining issues in order to expedite examination of the present invention.

It is not believed that extensions of time or fees for net addition of claims are required, beyond those that may otherwise be provided for in documents accompanying this paper. However, in the event that additional extensions of time are necessary to allow consideration of this paper, such extensions are hereby petitioned under 37 CFR § 1.136(a), and any fee required therefore (including fees for net addition of claims) is hereby authorized to be charged to Deposit Account No. 16-0605.

Respectfully submitted,



Chad L. Thorson
Registration No. 55,675

Customer No. 00826
ALSTON & BIRD LLP
Bank of America Plaza
101 South Tryon Street, Suite 4000
Charlotte, NC 28280-4000
Tel Charlotte Office (704) 444-1000
Fax Charlotte Office (704) 444-1111

ELECTRONICALLY FILED USING THE EFS-WEB ELECTRONIC FILING SYSTEM OF THE UNITED STATES PATENT & TRADEMARK OFFICE ON AUGUST 15, 2007.
LEGAL02/30486023v1